

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EULALIO MEDRONO MORENO

Plaintiff

vs

UNITED STATES OF AMERICA

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CIVIL ACTION NO. 4:11-CV-3311

OPINION AND ORDER

As an addendum to the Court's Order issued on August 2, 2013 (Doc. 132), denying Moreno's Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 (Doc. 123) and granting Government's Motion to Dismiss (Doc. 126), the Court concludes that Moreno's Certificate of Appealability is denied.

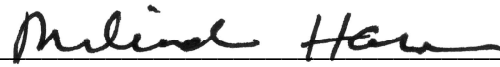
Under 28 U.S.C. § 2253, a certificate of appealability is required before an appeal may proceed in a § 2255 action. *See Hallmark v. Johnson*, 118 F.3d 1073, 1076 (5th Cir. 1997) (noting that actions under either 28 U.S.C. § 2254 or § 2255 require a certificate of appealability). "Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals...." 28 U.S.C. § 2253(c)(1); *see also Miller-El v. Cockrell*, 537 U.S. 322, 336–37 (2003). Furthermore, the Court may issue a "certificate of appealability...only if the applicant has made a substantial showing of the denial of a constitutional right" by demonstrating "that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." 28 U.S.C. § 2253(c)(2); *Tennard v. Dretke*, 542 U.S. 274, 282 (2004) (internal quotations omitted). A Court may deny a certificate of appealability sua sponte. *Haynes v. Quarterman*, 526 F.3d 189, 193 (5th Cir. 2008) (citing *Alexander v. Johnson*, 211 F.3d 895, 898 (5th Cir. 2000)).

For the reasons cited above and in the Court's Order, Moreno's Certificate of Appealability is denied because a reasonable jurist could not conclude that Moreno has stated a valid claim under § 2255.

It is hereby

ORDERED that Moreno's Certificate of Appealability is **DENIED**.

SIGNED at Houston, Texas, this 30th day of June, 2014.

A handwritten signature in black ink, appearing to read "Melinda Harmon", is written over a horizontal line.

MELINDA HARMON
UNITED STATES DISTRICT JUDGE